[Federal Register: July 27, 2000 (Volume 65, Number 145)]
[**Notices**]
[Page 46172-46175]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr27jy00-63]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Supplement to a Final Environmental Impact Statement Pertaining to the Translocation of **Southern Sea** Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent (NOI) to prepare a supplement to a final environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act, 40 CFR 1502.9(c)(1)(ii) this NOI advises the public that we, the U.S. Fish and Wildlife Service (Service), intend to prepare a draft and final Supplemental Environmental Impact Statement (Supplement) (EIS) pertaining to the translocation of **southern sea** otters.

From 1984 through May of 1987, we drafted and finalized an EIS which analyzed the impacts of establishing a program to translocate **southern sea** otters from their then current range along the central coast of California to areas of northern California, **southern** Oregon, or San Nicolas Island off the coast of **southern** California. We implemented the translocation program and moved **southern sea** otters from the coast of central California to San Nicolas Island starting in August 1987 and ending in March 1990. As part of the translocation program, up until 1993, we removed or attempted to remove otters (containment) from a special management zone established under the translocation program. The special management zone is located off the coast of **southern** California, from Point Conception south to Mexico, and includes the channel islands, exclusive of San Nicolas Island and the surrounding translocation zone. The purpose of this containment component of the translocation program was to prevent, to the maximum extent feasible, conflict between **sea** otters and other fishery resources within the management zone and to facilitate the management of **sea** otters at San Nicolas Island. Over the past several years, significant new circumstances have arisen that bear on the translocation program and, in particular, on the containment component of the program. In addition, we have acquired significant new information relevant to environmental concerns for **southern sea** otters.

In response to these significant new circumstances and new information, we are reevaluating the present **southern sea otter** translocation program and propose to modify the program consistent with the recovery needs of the species. This NOI serves to describe several alternative modifications to the program as well as termination of the program, invites public participation in the scoping process for preparing the EIS, and identifies the Fish and Wildlife Service

official to whom questions and comments concerning the **proposed** action may be directed. Throughout the scoping process, the public, environmental groups, industries, Federal and State agencies, local governments, and other interested parties will have the opportunity to assist us in determining the scope of the Draft Supplement, significant issues that should be addressed, and alternatives to be considered.

DATE: Written comments regarding scoping for the Draft Supplement should be received by September 29, 2000. See SUPPLEMENTARY INFORMATION section for meeting dates.

ADDRESSES: Address all comments concerning this notice to U.S. Fish and Wildlife Service, Ventura Field Office, Attention Mr. Greg Sanders, 2493 Portola Road, Suite B, Ventura, California, 93003-7726, (telephone: 805/644-1766; facsimile: 805/644-3958). Submit electronic comments to fw1ottereis@r1.fws.gov. See SUPPLEMENTARY INFORMATION section for file formats and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Sanders, U.S. Fish and Wildlife Service, at the above Ventura address.

SUPPLEMENTARY INFORMATION:

Background

In 1977, we listed the **southern sea otter** (Enhydra lutris nereis) as a threatened species under the Endangered Species Act (ESA) after consideration of its small population size, greatly reduced range, and the potential risk from oil spills. We approved a recovery plan for the species in 1982. At the time the recovery plan was being developed, available information suggested the **sea otter** population was not growing, and there was concern the population was in decline. In response, we determined that translocating **sea** otters was an effective and reasonable recovery action, although there was some concern that a translocated **sea otter** population could impact shellfish fisheries that had developed in areas formerly occupied by **sea** otters. Goals cited in the recovery plan included: minimizing risk from potential oil spills; establishing at least one additional breeding colony outside the then current **sea otter** range; and compiling and evaluating information on historic distribution and abundance, available but unoccupied habitat, and potential fishery conflicts to help identify optimum distribution, abundance, and productivity. The idea of translocation was not new as several prior efforts to reestablish **sea otter** populations via translocation had been successful. We developed a **southern sea otter** translocation plan in 1986.

In concept, the purpose of translocation was to establish **sea** otters in one or more areas outside the then current range to minimize the possibility of a single natural or human-caused catastrophe, such as an oil spill, adversely affecting a significant portion of the population. Ultimately, it was anticipated that translocation would result in a larger population size and a more continuous distribution of animals throughout the **southern sea otter**'s former historic range. Translocation was viewed as important to achieving recovery, and for identifying the optimal sustainable population (OSP) level for the **southern sea otter** as required under the Marine Mammal Protection Act (MMPA).

Translocation of a listed species is generally authorized under the

Endangered Species Act, and under certain specific circumstances, translocation of a listed species to establish experimental populations is authorized under section 10(j) of the ESA. The **sea otter**, however, is protected by both the ESA and the MMPA, and prior to the amendments of 1988, there were no similar translocation provisions under the

[[Page 46173]]

MMPA. For **sea** otters, this dilemma was resolved in 1986 with the passage of Public Law (PL) 99-625 providing for the translocation of **southern sea** otters.

When it was signed into law in 1986, PL 99-625 specifically authorized, and established guidelines for, the translocation of **southern sea** otters. Special **regulations** implementing the law at 50 CFR 17.84(d) provide details of the translocation plan, including five criteria for determining whether the translocation program is a failure. Under the **regulations**, prior to declaring the translocation a failure, we must conduct a full evaluation of the program and the probable causes of failure, and consult with both the Marine Mammal Commission and the California Department of Fish and Game (CDFG). If the causes for program failure can be determined, and legal and reasonable remedial measures can be identified and implemented to eliminate the causes of failure, the **regulations** state that consideration will be given to continuing to maintain the translocated **sea otter** population. If the causes of the failure cannot be identified and remedied, we will publish the results of the failure evaluation in the Federal Register, amend the **regulations** to terminate the translocation program, and remove all otters from San Nicolas Island and the management zone.

In August 1987, the Service and CDFG agreed to a Memorandum of Understanding providing for cooperative research and management efforts to promote recovery of **southern sea** otters. The agreement also included provisions to minimize conflicts with existing shellfish fisheries and other marine resources through containment of **sea** otters. In 1997, CDFG notified us that they would no longer be able to assist with containment of **sea** otters in the management zone.

A primary purpose of the translocation program was to establish a colony of **sea** otters at a location outside the then existing parent range to enhance recovery and provide protection against the possibility of a natural or human-caused event, such as an oil spill, adversely affecting a significant portion of the **sea otter** population. Contrary to expectations and to the primary recovery objective of the **sea otter** management program, San Nicolas Island has not produced a second, independent colony of **sea** otters sufficiently removed from the parent population so as to be shielded from the effects of a major oil spill or other catastrophic incident. As demonstrated by the size of the 1989 Exxon Valdez oil spill, the impacts of a major oil tanker accident could encompass both the parent range of the **sea otter** and the translocation zone surrounding San Nicolas Island. In addition, the experimental population at San Nicolas Island has not grown into an established independent colony, as defined by the translocation program, despite the original translocation of 140 otters. The translocation program states that a minimum number of 150 otters at San Nicolas Island is necessary to be considered an established population that would be available to repopulate areas in the event of a major loss of the parent population from an oil spill or other catastrophic event. Since the translocation of otters to San Nicolas Island, the

island population has never exceeded 23 otters. Given its very small size, the experimental population is not contributing significantly to recovery of the species and is not a viable source for repopulating the parent population in the event of a major oil spill or similar incident. In addition, the small size of the experimental population prevents many of the secondary research objectives of the translocation plan from being met.

Proposed Action

We propose to reevaluate the present **southern sea otter** translocation program as described in the Final EIS for Translocation of **Southern Sea** Otters, Appendix B, May 1987, and modify the program consistent with the recovery needs of the species. The purpose of this action is to assess the impacts of alternatives and reduce the **southern sea otter**'s vulnerability to extinction.

New Information and Changed Circumstances

The Supplement will review and assess new information and changed circumstances pertaining to translocation of the **southern sea otter**. New information and changed circumstances include but are not limited to:

(1) The January 2000 Draft Revised Recovery Plan

The number of **southern sea** otters counted during spring surveys has declined over four of the past 5 years and the population continues to be vulnerable to extinction. The Recovery Team now recommends against additional translocations to accomplish the objective of increasing the range and number of **southern sea** otters in California. There is reason to believe that range expansion of **sea** otters will occur more rapidly if the existing population is allowed to passively recover than it would under a recovery program that includes translocating **sea** otters.

(2) Results of the Translocation Program on **Sea** Otters and **Sea Otter** Population Recovery

The translocation of **sea** otters to San Nicolas Island has been much less successful than expected. After nearly 13 years of experience with the **sea otter** translocation program, the San Nicolas Island colony population remains very small (fewer than 21 independent animals). Even if the translocation program is allowed to continue and it eventually succeeds, it will be many more years before the **sea otter** population at the island reaches the population target of 150 animals and will be able to serve the recovery objectives identified in the translocation plan.

(3) Mass Movement of **Sea** Otters

A large number of **sea** otters from the parent population temporarily moved into the northern end of the management zone in 1998 and reappeared in 1999 and 2000. The animals were not translocated to the area, and this movement appears to represent a natural extension of their range.

(4) Results of Containment Efforts and **Sea Otter** Population Recovery

Capturing **southern sea** otters through non-lethal means, as required by PL 99-625, has proven in most cases to be more difficult than we anticipated when developing the translocation program. From 1987 to 1993, we responded to sightings of **southern sea** otters in the management zone. However, we were often unable to find reported individuals. When otters were detected, efforts to capture even a few otters were time consuming and often unsuccessful. In addition, several otters died shortly after capture and release into the parent population, leading to concerns that containment may ultimately result in the death of some otters removed from the management zone. The containment program anticipated that the Fish and Wildlife Service and the CDFG would jointly manage an effort to locate and remove **sea** otters in the management zone. The recent mass movements of **sea** otters from the parent range to the management zone renders containment even more difficult because CDFG is no longer able to participate in containment efforts.

[[Page 46174]]

(5) **Sea Otter** Socialization and Interactions With Introduced Individuals

We have concluded, in a recent biological opinion evaluating the effects of **sea otter** containment under the translocation plan, that the movement of large numbers of **southern sea** otters from the management zone into the parent range would likely cause substantial disruption of the latter's social structure and increased pressure on food resources and, consequently, result in jeopardy to the listed species. Such impacts could include increased mortality and population instability, which would likely continue, if not accelerate, the recent decline in the parent population.

(6) Parent Population Decline

In 4 of the past 5 years (1996, 1997, 1998, and 1999) the total number of **southern sea** otters counted during spring population surveys has progressively declined. In spring 1995, the number of **sea** otters was the highest number recorded to date; a total of 2,377 animals was counted. In the spring of 1996, the number fell to 2,278. By the spring of 1997, it was down to 2,229, in spring 1998 a total of 2,114 animals were counted, and the 1999 spring count observed only 2,090 **sea** otters. This represents a decline of just under 12 percent between 1995 and 1999. The spring 2000 survey counted a total of 2,317 otters (2,053 independents plus 264 pups). This represents nearly an 11 percent increase since 1999, but is still below the highest count of 2,377 obtained in the spring 1995 survey. The most recent spring survey results are encouraging; however, year to year variation in the counts is expected. For this reason the **southern sea otter** recovery team has recommended the use of a 3-year running average to incorporate the existing degree of uncertainty in assessing population counts. The spring 2000 count represents an increase in both the annual counts and the 3-year running average and may indicate a reversal in the downward trend observed since 1995. However, the information from the spring 2000 is not sufficient evidence that the recent decline in the **southern sea otter** population is reversed. Survey data from future years will be needed to determine if the population counts continue to increase and

demonstrate an upward trend.

Alternatives

The Supplement will evaluate new information and changed circumstances in order to determine the environmental impact (beneficial or adverse) which would result from a number of possible **sea otter** management alternatives, as compared to the current Federal Action (implementation of a translocation program). The Supplement will compare alternative scenarios against the current management program (No Action Alternative). Some of these alternatives may require new legislation.

Alternatives may include but are not limited to the following:

(1) The Action Alternative

This alternative would continue the translocation program without additional evaluation of failure or modification of the management zone. Removal of **sea** otters from the management zone would resume if changed circumstances or new information indicated that containment would not result in jeopardy to the listed species.

(2) Complete the Evaluation of Failure Criteria for the Translocation Program and Proceed With Actions Identified in the Translocation Plan and Implementing **Regulations**

According to the **regulations** implementing PL 99-625 at 50 CFR 17.84(d)(8), the translocation program would generally be considered to have failed if one or more of five criteria are met. We would complete our evaluation and assessment of the translocation program using these criteria. If the translocation program were determined to be a failure after the evaluation, we would remove the experimental population of **sea** otters from San Nicolas Island, provided that we conclude that removal of the island population and its return to the parent population could be accomplished without jeopardizing the listed species. Similarly, if circumstances changed or new information indicated that containment of **sea** otters in the management zone would not result in jeopardy to the listed species, we would make reasonable efforts to remove all **sea** otters remaining in the management zone and return them to the parent population. The management zone would then be eliminated.

(3) Complete the Evaluation of Failure Criteria for the Translocation Program But Do Not Remove **Sea** Otters From San Nicolas Island or the Management Zone

We would complete the evaluation and assessment of the translocation program using the failure criteria. If determined to be a failure after the evaluation, we would initiate a **proposed** rulemaking to change the existing **regulations** at 50 CFR 17.84(d)(8) to eliminate the management zone and allow **sea** otters to remain at San Nicolas Island and in the management zone.

(4) Modify the Boundaries of the Management Zone

We would initiate a **proposed** rulemaking to change the existing **regulations** at 50 CFR 17.84(d)(8) to re-delineate boundaries of the

management zone. Containment of **sea** otters would resume within the new boundaries of the management zone if changed circumstances or new information indicated that containment would not result in jeopardy to the listed species.

(5) Modify Lobster, Crab, and Live Fin-Fish Trapping at San Nicolas Island To Avoid any Reasonable Possibility of Take of **Sea** Otters in Traps

We would pursue a change in State **regulations** to address gear modifications and/or fishing restrictions at San Nicolas Island. Containment of **sea** otters within the management zone would resume if changed circumstances or new information indicated that containment would not result in jeopardy to the listed species.

Public Comments Solicited

The environmental review of the **proposed** action will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), National Environmental Policy Act **Regulations** at 40 CFR 1500-1508, other appropriate Federal laws and **regulations**, and policies and procedures of the Fish and Wildlife Service for compliance with those **regulations**. This notice is being furnished in accordance with section 1501.7 of the National Environmental Policy Act, to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the Supplement. We solicit comments and participation in this scoping process. Questions concerning the Draft Supplement and written scoping comments should be directed to U.S. Fish and Wildlife Service, Ventura Field Office, Attention Mr. Greg Sanders, 2493 Portola Road, Suite B, Ventura, California 93003-7726, (telephone: 805/644-1766; facsimile: 805/644-3958). Written comments regarding scoping for the Draft Supplement should be received by September 29, 2000, at the address above. You may also send comments by electronic mail (e-mail) to fw1ottereis@r1.fws.gov. Please submit comments in ASCII file format and

[[Page 46175]]

avoid the use of special characters and encryption. If you do not receive a confirmation from the system that your e-mail message has been received, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805/644-1766.

Meetings

Public scoping meetings will be held on the following dates:

1. August 15, 2000, 1 p.m. to 4 p.m. and 7 p.m. to 10 p.m., Santa Barbara, CA at the Radisson Hotel.
2. August 17, 2000, 1 p.m. to 4 p.m. and 7 p.m. to 10 p.m., Monterey, CA at the Monterey Conference Center.

Registration will begin 1 hour prior to each meeting session. There will be a presentation at the beginning of the public scoping meetings that will address background on the **southern sea otter** translocation program and significant new circumstances and information relevant to the status of the **southern sea otter** and the effects of the translocation program, including containment, on the **southern sea**

otter. Submission of written and oral comments will be accepted at the scoping meetings.

The Draft Supplement is scheduled to be available to the public in the summer of 2001.

Dated: July 19, 2000.

John Engbring,

Acting Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 00-18704 Filed 7-26-00; 8:45 am]

BILLING CODE 4310-55-P